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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,840	07/23/2001	Victor Walters	WALTE-18.US	8807

7590 10/01/2002
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EXAMINER

WAKS, JOSEPH

ART UNIT PAPER NUMBER

2834

DATE MAILED: 10/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/909,840

Applicant(s)

WALTERS, VICTOR

Examiner

Joseph Waks

Art Unit

2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claim 9 and 9 been renumbered 9 and 10. *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1, 2, 7, 9 and 10** are rejected under 35 U.S.C. 102(b) as being anticipated by **Rebman (US 1,368,454)**.

Rebman discloses invention as claimed: a turbine apparatus having a floatable body with two hollow side members 1 joint by several cross members 13 providing a flow passage for water there between, rotors 8 having blades and rotating on a horizontal shaft 7 having opposite end portions mounted in bearings 6 held by the side members, power producing means 12 rotatably connected to the shaft, and the upstream ends of the side members have deflecting surfaces (as can be clearly seen in Figure 1) directing the water into the channel crated by the side members.

4. **Claims 1, 2, 4, 7, 9 and 10** are rejected under 35 U.S.C. 102(b) as being anticipated by **Gondolf (DE 4026638)**.

Gondolf discloses invention as claimed: a turbine apparatus having a floatable body with two hollow side members 1 joint by several cross members providing a flow passage for water there between, rotors 4 having blades and rotating on a horizontal shaft having opposite end portions mounted in bearings held by the side members, power producing means rotatably connected to the shaft, and the upstream ends of the side members have deflecting surfaces (as can be clearly seen in Figure 3) directing the water into the channel crated by the side members, wherein the power producing means 6 are generators located inside the tubular side members 1.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claim 3** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Rebman (US 1,368,454)** or **Gondolf (DE 4026638)**.

Both, **Rebman** and **Gondolf** disclose the claimed invention except for the end faces being sloped at angle of less than 50°. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the end faces sloped at angle of less than 50° for the purpose of providing the deflecting surfaces with good aerodynamic properties, since applicant has not disclosed that the end faces sloped at angle of less than 50° solve any stated problem or is for any particular purpose and it has been held that discovering an optimum value

of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

7. **Claims 5 and 6** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Rebman** (US 1,368,454) or **Gondolf** (DE 4026638) in view of **Walters** (US 5,664,418).

Both, **Rebman** and **Gondolf** disclose the turbine apparatus essentially as claimed. However, neither **Rebman** nor **Gondolf** disclose the rotor including a hollow watertight cylinder with a hollow watertight blades.

Walters discloses a rotor 4 for a water turbine having a hollow, watertight cylinder 5 with hollow watertight blades for the purpose of providing a light and structurally sound impeller structure that is suitable to receive a fluid flow from wave or tidal action of water.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the turbine apparatus as taught by **Rebman** or **Gondolf** and to provide the rotor including a hollow watertight cylinder with a hollow watertight blades as taught by **Walters** for the purpose of providing a light and structurally sound impeller structure that is suitable to receive a fluid flow from wave or tidal action of water.

8. **Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Rebman** (US 1,368,454) or **Gondolf** (DE 4026638) in view of **Vidal** (US 4,371,346).

Both, **Rebman** and **Gondolf** disclose the turbine apparatus essentially as claimed. However, neither **Rebman** nor **Gondolf** disclose the apparatus comprising a wind turbine supported by the cross members.

Vidal discloses a turbine apparatus 1 having a wind turbine 2 supported by the cross members 15, 16 for the purpose of providing a combined application of the wind and water stream energy application for propulsion of a boat and recovering energy for other use.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the turbine apparatus as taught by **Rebman** or **Gondolf** and to provide the apparatus comprising a wind turbine supported by the cross members s as taught by **Vidal** for the purpose of providing a combined application of the wind and water stream energy application for propulsion of a boat and recovering energy for other use such as electric power generation.

Prior Art

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Communication

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Waks whose telephone number is (703) 308-1676. The examiner can normally be reached on Monday through Thursday 8 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor R Ramirez can be reached on (703) 308-1371. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-1341 for regular communications and (703) 305-1341 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.



JOSEPH WAKS
PRIMARY PATENT EXAMINER
TC-2800

JW
September 25, 2002